



2727

THE ATTORNEY GENERAL  
OF TEXAS

AUSTIN, TEXAS

WILL WILSON  
ATTORNEY GENERAL

March 3, 1959

Honorable Zollie Steakley  
Secretary of State  
Capitol Station  
Austin, Texas

Opinion No. WW - 562

Re: Authority of the Secretary  
of State to accept and file  
Articles of Incorporation  
which contain a stated pur-  
pose clause and related  
questions.

Dear Mr. Steakley:

You have inquired concerning whether a charter should be filed  
containing the following purpose clause:

"To sell prearranged or prepaid funeral services  
or funeral merchandise (including caskets, grave  
vaults, and all other articles of merchandise incident-  
al to a funeral service) in this state under a sales  
contract providing for prepaid burial or funeral bene-  
fits or merchandise to be delivered at an undetermined  
future date dependent upon the death of the contracting  
party".

I respectfully direct your attention to Opinion of Attorney  
General Mann No. O-2736 written by Ardell Williams. I think this opinion  
in its answer to the third question there discussed will resolve the  
problem with which you are concerned. As I understand your question, your  
office feels that you may be precluded from filing this charter because  
the business described within the purpose clause may fall within the pur-  
view of Article 14.37 of the Insurance Code, requiring burial associations  
to organize under Chapter 12 of the Insurance Code and be regulated under  
Chapter 14 of that Code. Article 14.37 is a codification of Section 23,  
Senate Bill 135, Acts 46th Legislature. The third question discussed in  
Opinion O-2736 concerns an activity which would be within the purview of  
the proposed purpose clause. That opinion holds that such an activity is  
not governed by Section 23, Senate Bill 135. However, you must require  
the purpose clause to be amended to add the following restrictive language:

"Provided however, that this corporation shall not  
engage in business as an insurance company or as a  
burial association".


2728

Honorable Zollie Steakley, Page 2, (WW-562)

The corporation must, however, comply with Article 548.b, Vernon's Civil Statutes.

Very truly yours,

WILL WILSON  
Attorney General of Texas

By   
Wallace P. Finfrock  
Assistant Attorney General

WPF:aw

APPROVED:

OPINION COMMITTEE:

Geo. P. Blackburn, Chairman

Marietta McGregor Payne  
Marvin Thomas

REVIEWED FOR THE ATTORNEY GENERAL  
BY:

W. V. Geppert